

§ 1952.243

29 CFR Ch. XVII (7–1–01 Edition)

(b) In accordance with § 1952.243(c) Alaska has developed and implemented a manual Management Information System by October 1, 1974 (41 FR 36206).

(c) In accordance with the requirements of § 1952.10 the Alaska Safety and Health Poster for private and public employees was approved by the Assistant Secretary on September 28, 1976 (41 FR 43405).

(d) In accordance with § 1952.243(e) Alaska has completed hiring of its industrial health staff by October 1, 1976 (41 FR 52556).

(e) In accordance with § 1952.243(f) Alaska has provided for an Industrial Health Laboratory capacity by October 1, 1976 (41 FR 36206).

(f) In accordance with § 1952.243(g) Alaska has adopted regulations covering inspections, citations, and proposed penalties, Alaska Occupational Safety and Health Review Board procedures; recording and reporting occupational injuries and illnesses; variances; and consulting and training which were approved by the Assistant Secretary on August 2, 1977.

(g) In accordance with § 1952.243(b) Alaska has developed a Compliance Manual which is modeled after the Federal Field Operations Manual and was approved by the Assistant Secretary on August 2, 1977.

(h) In accordance with § 1902.34 of this chapter, the Alaska occupational safety and health plan was certified, effective September 9, 1977, as having completed on or before October 1, 1976, all developmental steps specified in the plan as approved on July 31, 1973.

[41 FR 56315, Dec. 28, 1976, as amended at 42 FR 40196, Aug. 9, 1977; 42 FR 45907, Sept. 13, 1977. Redesignated at 49 FR 38261, Sept. 28, 1984]

§ 1952.243 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR part 1902, and after a determination that the State met the “fully effective” compliance staffing benchmarks as established in 1980 in response to a Court Order in *AFL-CIO v. Marshall*, (CA 74–406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant

Secretary evaluated actual operations under the Alaska State plan for a period of at least one year following certification of completion of developmental steps (Sept. 9, 1977, 42 FR 54905). Based on the Evaluation Report for FY 1983 and available FY 1984 data, and after opportunity for public comment and an informal public hearing held on June 7, 1984 in Anchorage, Alaska, the Assistant Secretary determined that in actual operations, the State of Alaska occupational safety and health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final States plan approval in section 18(e) of the Act and implementing regulations at 29 CFR part 1902. Accordingly, the Alaska plan was granted final approval and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective September 26, 1984.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Alaska. The plan does not cover private sector maritime employment; worksites located on the navigable waters, including artificial islands; operations of private sector employers within the Metlakatla Indian Community on the Annette Islands; operations of private sector employers within Denali (Mount McKinley) National Park; Federal government employers and employees; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; or the enforcement of the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in “agricultural employment” within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that

Alaska retains enforcement responsibility over agricultural temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

(c) Alaska is required: To maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

[49 FR 38261, Sept. 28, 1984, as amended at 54 FR 115, Jan. 4, 1989; 62 FR 2563, Jan. 17, 1997; 65 FR 36625, June 9, 2000]

§ 1952.244 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Alaska plan under section 18(e) of the Act, effective September 26, 1984, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Alaska plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violation of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(b) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or institute criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary may retain jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Alaska plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments. Federal jurisdiction will be retained over marine-related private sector employment at worksites on the navigable waters, such as floating seafood processing plants, marine construction, employments on artificial islands, and diving operations in accordance with section 4(b)(1) of the Act. Federal jurisdiction is also retained and exercised by the Employment Standards Administration, U.S. Department of Labor (Secretary's Order 5-96, December 27, 1996) with respect to the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, in agriculture, as described in §1952.243(b). Federal jurisdiction is also retained for private sector worksites located within the Annette Islands Reserve of the Metlakatla Indian Community, for private sector worksites located within the Denali (Mount McKinley) National Park, for Federal government employers and employees, and for the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

(c) Federal authority under provisions of the Act not listed in section 18(e) is unaffected by final approval of the plan. Thus, for example, the Assistant Secretary retains his authority under section 11(c) of the Act with regard to complaints alleging discrimination against employees because of the